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HUMAN RIGHTS COMMITTEE

Forty-third session

SUMMARY RECORD OF THE 1092nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 21 October 1991, at 10.30 a.m.

Chairman: Mr. POCAR

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The meeting was called to order at 11 a.m.

OPENING OF THE SESSION

1. The CHAIRMAN declared open the forty-third session of the Human Rights Committee. Welcoming members, he expressed the hope that Mr. N'Diaye would be able to join them towards the end of the week after his recent hospitalization, and informed the Committee with profound regret of the death at the beginning of October of Mr. Joseph Mommersteeg, who had served on the Committee for four years. All members had benefited from his experience and competence, kindness and courtesy, and had admired his devotion to the cause of human rights. He thought it would be appropriate to send a telegram to Mr. Mommersteeg's wife and family on the Committee's behalf.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/73)

2. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

3. The CHAIRMAN drew the Committee's attention to the proposed programme of work for the session which had been circulated by the Secretariat as a document without a symbol, and suggested that it should be considered as flexible and subject to amendment in the course of the session as necessary.

4. The programme of work was adopted on that understanding.

5. The CHAIRMAN invited the Chairman/Rapporteur of the Working Group on Communications to make a brief oral report.

6. Miss CHANET (Chairman/Rapporteur of the Working Group on Communications) said that the Group, consisting of Mr. Myullerson, Mr. Prado Vallejo, Mr. Sadi, Mr. Wennergren and herself, with Mr. Dimitrijevic in attendance at the meeting held on Wednesday morning, had held seven meetings the previous week and had managed to complete its consideration of all 17 drafts submitted by the Secretariat. It had adopted recommendations on three sets of final views, a number of decisions in favour of admissibility, a decision that a communication was partly admissible and partly inadmissible and a decision to change an admissibility decision to one of inadmissibility. The translation of drafts concerning three other cases had not been completed, the texts would only be available in the course of the first week of the session. The Working Group had also been informed that the Special Rapporteur on New Communications would submit recommendations of admissibility for six new communications. Given that situation, the Group might be able to meet in the course of the session to finalize two or three drafts, if the agenda so permitted.

7. The CHAIRMAN invited the Chairman/Rapporteur of the Working Group under Article 40 to make a brief oral report.

8. Mr. WENNERGREN (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group had held four meetings. It had consisted, at the first two meetings, of Miss Chanet, Mr. Myullerson, Mr. Sadi and himself and at the other two meetings of Mr. Dimitrijevic, Mr. Myullerson,

Mr. Sadi and himself. At the first two meetings, the Group had considered and, as appropriate, amended the lists of issues for Austria and Poland which he had drafted with assistance from the Secretariat. The following two meetings had been devoted to the list of issues for Ecuador as prepared by the Secretariat, with amendments and revisions proposed by Mr. Sadi, and the formal recommendations on the methods of work of the Committee under Article 40 of the Covenant. The Committee had previously been unable to examine those recommendations in full and the remaining four paragraphs were to be discussed at its current session. The Working Group had had little to add to the Secretariat's draft but had prepared a paper on the preparation of comments which would be submitted to the Committee for consideration together with the four paragraphs still outstanding.

9. Mrs. HIGGINS said that when the Committee had adopted its new methodology for the Working Group under Article 40 whereby an individual rapporteur would do preparatory work, it had agreed, as the records would show, that that person was not to be identified publicly for very obvious policy reasons: first of all, the experts worked as members of working groups or of the Committee as a whole and not as individuals; secondly, anonymity prevented a State from objecting to a list of issues because of the identity of the person who had prepared it. It was therefore regrettable that individual names had been mentioned and it was to be hoped that the Committee would revert to its established practice, as agreed earlier.

10. Mr. WENNERGREN said his recollection was that the Committee had agreed that when a delegation from a State party was present, no member of the Committee should be identified as being responsible for drafting the list of issues. However, he did not recall that the Committee had called for secrecy with regard to what had taken place during Working Group meetings. The summary records would in any event show who was responsible for drafting the lists of issues.

11. The CHAIRMAN suggested that the Committee should postpone its discussion until the summary records had been consulted. Consideration of the matter could perhaps be resumed when the Committee came to discuss methods of work.

12. Mr. EL SHAFEI asked whether the secretariat had received the supplementary report which the Committee had requested during its consideration of Iraq's second periodic report. As far as he knew, no new report had been submitted. Noting also that it was proposed to devote three meetings to the consideration of Iraq's third periodic report, he wondered whether the Committee could complete its work in two meetings and use the third to discuss other matters such as the World Conference on Human Rights, for which only one meeting had been scheduled, and communications, given the heavy workload in that area.

13. The CHAIRMAN expressed the hope that the Committee might be able to complete its work on State party reports in two meetings where several of the reporting countries were concerned to enable it to devote more time to other matters. As to Iraq, his recollection was that the Committee had not asked the Iraqi Government to submit more written information but had suggested that since several issues raised by the Committee at its previous session had not been properly elucidated, the Iraqi Government might provide oral clarification when presenting its third periodic report.

14. He next invited the Committee to consider, section by section, the lists of issues relating to the reports of Austria, Poland and Ecuador. The lists for Austria and Poland had already been sent to the respective Missions in accordance with the Committee's usual practice and any changes would have to be forwarded too.

List of issues to be taken up in connection with the consideration of the second periodic report of Austria (CCPR/C/51/Add.2)

Section I: Constitutional and legal framework within which the Covenant is implemented (article 2 (2) and (3))

Section II: Non-discrimination and equality of the sexes (articles 2 (1), 3, 24 and 26)

Section III: Right to life (article 6)

Section IV: Liberty and security of the person and the treatment of prisoners and other detainees (articles 7, 9 and 10)

15. Sections I, II, III and IV were adopted.

Section V: Right to a fair trial (article 14)

16. Mrs. HIGGINS suggested that a small change should be made to paragraph (b) to make it clear that what was required was information on the time that elapsed between the moment of arrest and the end of the trial.

17. Miss CHANET said that that was not what was intended. Information was required on the average length of criminal cases, which might not necessarily involve any arrest.

18. The CHAIRMAN noted that section IV (e) referred to the average length of pre-trial detention.

19. Mrs. HIGGINS said that in view of the comments made, she would withdraw her suggestion.

20. The CHAIRMAN said that section V would therefore remain as it stood.

21. Section V was adopted.

Section VI: Freedom of movement and expulsion of aliens (articles 12 and 13)

Section VII: Freedom of religion and expression; prohibition of propaganda for war and incitement to national, racial or religious hatred (articles 18, 19 and 20)

Section VIII: Freedom of assembly and association (articles 21 and 22)

Section IX: Rights of persons belonging to minorities (article 27)

22. Sections VI, VII, VIII and IX were adopted.

23. The list of issues as a whole was adopted.

List of issues to be taken up in connection with the consideration of the third periodic report of Poland (CCPR/C/58/Add.10 and Add.13)

Section I: Constitutional and legal framework within which the covenant is implemented (article 2 (2) and (3))

Section II: State of emergency (article 4)

Section III: Non-discrimination and equality of the sexes (articles 2 (1), 3, 24 and 26)

24. Sections I, II and III were adopted.

Section IV: Right to life (article 6)

25. The CHAIRMAN asked the Chairman/Rapporteur of the Working Group under Article 40 whether there was any special reason for including item (c) in the case of Poland, since it appeared to be a question that could apply to any country.

26. Mr. WENNERGREN (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group had considered that the time was ripe for including such a question; since Poland had experienced serious pollution problems, the consideration of that country's third periodic report could offer a useful opportunity for introducing it.

27. Section IV was adopted.

Section V: Liberty and security of the person (articles 9 and 11)

28. In response to a question raised by Mr.PRADO VALLEJO concerning paragraph (b) the CHAIRMAN said that the Spanish text would be brought into line with the English version.

29. Section V was adopted.

Section VI: Treatment of prisoners and other detainees (articles 7 and 10)

30. Section VI was adopted.

Section VII: Right to a fair trial (article 14)

31. Mr. PRADO VALLEJO said that it was important to have information on the changes to be made in the new code of criminal procedure as compared with the existing code. A question to that effect might either be included in the list of issues or might be put to the Polish delegation when the report was considered.

32. Mr. WENNERGREN (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group had not the discussed the point specifically, but he understood that the intention was that the State party should indicate the comparative provisions in the existing code and the new code in order to show what improvements were being made. If the Committee so desired, a reference to the existing provisions could be included in question (a).

33. Mr. PRADO VALLEJO suggested that it should merely be asked what changes were being made.

34. The CHAIRMAN said that the text would be amended accordingly.

35. Section VII was adopted on that understanding.

Section VIII: Freedom of movement and expulsion of aliens (articles 12 and 13)

Section IX: Right to privacy (article 17)

Section X: Freedom of religion and expression (articles 18 and 19)

Section XI: Freedom of assembly and association (articles 21 and 22)

Section XII: Right to participate in the conduct of public affairs (article 25)

Section XIII: Rights of persons belonging to minorities (article 27)

36. Sections VIII, IX, X, XI, XII and XIII were adopted.

37. The list of issues as a whole, as amended, was adopted.

List of issues to be taken up in connection with the consideration of the third periodic report of Ecuador (CCPR/C/58/Add.9)

Section I: Right to self-determination (article 1)

38. The CHAIRMAN asked whether there was any special reason why the right to self-determination appeared in section I, bearing in mind that it normally followed the issue "Constitutional and legal framework within which the Covenant is implemented".

39. Mr. WENNERGREN (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group had followed the numerical order of the articles to which the issues related. The question of self-determination from a domestic standpoint had not hitherto been raised, and it was considered of sufficient individual importance to warrant its separate inclusion in section I.

40. Mr. EL SHAFEI said that the list of issues under consideration was the first in which explicit reference had been made to the exercise of self-determination at the domestic level. In the absence of any problem of

domestic self-determination in which groups of people were calling for autonomy, he would consider the appropriate article of the Covenant under which such a question should be raised to be article 25.

41. Mrs. HIGGINS said that it was a long-standing practice of the Committee to consider self-determination as having both an internal and an external aspect. Questions on internal self-determination had generally been raised only with respect to non-democratic or non-pluralistic States parties. She found it somewhat unusual to see the question addressed under section I to a country such as Ecuador, which was certainly a democratic country in which everyone could participate in the self-determination process. She would be interested to hear what had led the Working Group to raise the issue in section I.

42. Mr. SADI said that Mrs. Higgins had rightly pointed out that the right to self-determination had two dimensions - external and domestic. In its report, Ecuador had referred to the right to the exercise of self-determination in the external context of non-self-governing countries and peoples, and the Working Group had considered it appropriate to draw attention to the fact that there was a domestic aspect also.

43. Mr. PRADO VALLEJO pointed out that the question of minorities in other countries had been dealt with under article 27. There was no internal self-determination problem in Ecuador, but the question might possibly relate to the existence of indigenous populations who were to be found throughout the Andean region, in which case it should be dealt with under article 27.

44. The CHAIRMAN suggested that section I should be deleted and an appropriate addition made under section XIV.

45. Mr. AGUILAR URBINA associated himself with Mrs. Higgins' comments concerning the inappropriateness of putting such a question to a country like Ecuador, which had a long tradition of democracy and in which free elections were held.

46. The question seemed to imply the existence of movements that were seeking to separate from Ecuador. The text as it stood was unacceptable. If the idea was to ascertain what rights and protection were afforded to indigenous peoples, the issue should appear under section XIV on the rights of persons belonging to minorities.

47. Mr. MAVROMMATIS said that the Committee should revert to the former manner of drafting. He was not certain that everyone meant the same thing by the internal aspect of self-determination. To him, it meant deciding democratically on the political and economic system of the country. Any question of secessionist movements would come under the external aspect.

48. Mr. SADI said that the Working Group had never intended the question to refer to the rights of minorities or of indigenous peoples but to the right of the people to exercise self-determination and decide on the kind of social and economic system they wished to have by holding democratic elections. The Working Group had been motivated by the precedent of the United Kingdom, which had stated in its report that it observed the right to self-determination by holding periodic democratic elections.

49. Mr. ANDO suggested that the issue should be raised in connection with article 25.

50. The CHAIRMAN said it was his understanding that the Committee wished to delete section I as it stood. It might either insert new questions under sections XIII and XIV or leave it to members to put questions orally.

Section II: Constitutional and legal framework within which the Covenant is implemented (article 2 (2) and (3))

Section III: State of emergency (article 4)

51. Sections II and III were adopted.

Section IV: Non-discrimination and equality of the sexes (articles 2 (1), 3 and 26).

52. The CHAIRMAN said that he was not fully convinced that States should be asked to provide additional general information at the stage of a third periodic report. The Committee should be more specific in its requests.

53. Mr. WENNERGREN (Chairman/Rapporteur of the Working Group under Article 40) said that the Working Group had formulated the question in the manner presented in order to ascertain the situation regarding equality of the sexes in Ecuador. The issue of sex equality was very important in Latin American countries. The Working Group was aware that much information on the subject was available in the report but felt that members were bound to raise further questions and that it would therefore be better to have a preliminary statement by the State party on which such questions could be based.

54. Mrs. HIGGINS shared Mr. Wennergren's view that the Committee would wish to spend some time on non-discrimination. She did not, however, like the way in which the question was formulated. There were two solutions. One would be simply to keep the heading of section IV so that members would have a starting-point. The second alternative would be for the Working Group to formulate one very specific question in relation to information that had already been given in order to open the door to further discussion.

55. Mr. WENNERGREN said that perhaps there could be a question on developments since the report had been submitted. That would provide a starting-point for specific questions from members.

56. Miss CHANET considered that a question on non-discrimination and equality of the sexes should be retained but that rewording was needed. The State party could be asked how it intended to comply with general comment 18.

57. Mr. ANDO supported Mr. Wennergren's proposal.

58. The CHAIRMAN suggested that the question could perhaps be reformulated by referring specifically to recent developments.

59. Mrs. HIGGINS suggested that the States party might be asked to inform the Committee if there had been recent actions under articles 2 (1) and 26 since the report had been submitted, bearing in mind the Committee's general comment.

60. The CHAIRMAN said that, if there were no objections, he would take it that the Committee wished to adopt section IV as reformulated in accordance with Mrs. Higgins' suggestion.

61. It was so decided.

Section V: Right to life (article 6)

Section VI: Treatment of prisoners and other detainees (articles 7 and 10)

Section VII: Liberty and security of the person (articles 9 and 11)

Section VIII: Right to a fair trial (article 14)

Section IX: Freedom of movement and expulsion of aliens (articles 12 and 13)

Section X: Freedom of religion and expression (articles 18 and 19)

Secton XI: Freedom of assembly and association (articles 21 and 22)

Section XII: Protection of children (article 24)

62. Sections V, VI, VII, VIII, IX, X, XI and XII were adopted.

Section XIII: Right to participate in the conduct of public affairs (article 25)

63. The CHAIRMAN said that paragraph (b) under section XIV should become paragraph (c) under section XIII. The paragraph did not refer to minorities under article 27 but to article 25. The reference in paragraph 157 of the report of Ecuador was to article 25.

64. Section XIII, as amended, was adopted.

Section XIV: Rights of persons belonging to minorities (article 27)

65. The CHAIRMAN reminded the Committee that paragraph (b) had been transferred to section XIII as paragraph (c).

66. Section XIV, as amended, was adopted.

67. The list of issues as a whole, as amended, was adopted.

68. The CHAIRMAN said, in connection with an incident which had occurred in July 1991, that a letter had been received from the Permanent Mission of Morocco in which the Prime Minister of Morocco reiterated his Government's readiness to continue the fruitful dialogue with the members of the Committee and expressed the wish that all measures would be taken to ensure conditions of serenity and dignity without any provocation or manifestation by elements seeking to use the occasion for political ends unrelated to the discussion.

The meeting rose at 12.45 p.m.